

IN RE:      Nickey Business Center, LP      )  
               Ward 073, Block 007, Parcels 00023, 00024, 00045, ) Shelby County  
               00047 and 00048      )  
               Industrial Property      )  
               Tax Year 2005      )

<sup>1</sup> Indeed, Mr. Killebrew himself characterizes subject property as "Class C" in his income approaches.

a January 1, 2005 assessment date, the administrative judge finds it inappropriate to rely on post-assessment date data such as capitalization rates from the second quarter of 2006.

The administrative judge finds that Mr. Schwalls' income approach also cannot receive the weight it might otherwise receive. The administrative judge finds that Mr. Schwalls focused on the actual experience of subject property and largely ignored the market. For example the actual expenses vary and almost certainly include both atypical, and capital expenditures.

Notwithstanding the foregoing, the administrative judge finds that both income approaches have probative value and support the following valuation of subject property:

|                                 |             |
|---------------------------------|-------------|
| Potential Gross Income          | \$ 947,102  |
| Less Vacancy & Collection Loss  | - 189,420   |
| Effective Gross Income          | \$ 757,682  |
| Less Operating Expenses         | - 375,000   |
| Net Operating Income            | \$ 382,682  |
| Capitalized at 13.5%            | ÷ .135      |
| Indicated Value Before Rounding | \$2,834,681 |

The foregoing income approach reflects a rental rate of \$7.20 per square foot and a 20% vacancy and collection loss allowance. The administrative judge recognizes that additional proof would almost certainly support various modifications to the above income approach.

The administrative judge finds that January 1, 2005 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). The administrative judge finds that events occurring after January 1, 2005 are normally irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumption reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. The administrative judge finds that the listing of subject property in September of 2006 is simply irrelevant.

#### ORDER

It is therefore ORDERED that the values and assessments set forth in exhibit B are hereby adopted for tax year 2005.

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

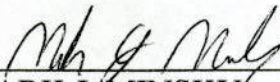
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12

of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of October, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Schwalls  
Tameaka Stanton-Riley, Appeals Manager

**EXHIBIT A**

| <u>Parcel ID</u> | <u>Land<br/>Value (\$)</u> | <u>Improvement<br/>Value (\$)</u> | <u>Total<br/>Value (\$)</u> | <u>Assessment (\$)</u> |
|------------------|----------------------------|-----------------------------------|-----------------------------|------------------------|
| 073-007-00023    | 142,100                    | 242,600                           | 384,700                     | 153,880                |
| 073-007-00024    | 125,200                    | 163,300                           | 288,500                     | 115,400                |
| 073-007-00045    | 438,200                    | 1,198,000                         | 1,636,200                   | 654,480                |
| 073-007-00047    | 81,900                     | 227,700                           | 309,600                     | 123,840                |
| 073-007-00048    | 94,600                     | 286,400                           | 381,000                     | 152,400                |

**EXHIBIT B**

| <u>Parcel ID</u> | <u>Land<br/>Value (\$)</u> | <u>Improvement<br/>Value (\$)</u> | <u>Total<br/>Value (\$)</u> | <u>Assessment (\$)</u> |
|------------------|----------------------------|-----------------------------------|-----------------------------|------------------------|
| 073-007-00023    | 142,100                    | 221,400                           | 363,500                     | 145,400                |
| 073-007-00024    | 125,200                    | 147,400                           | 272,600                     | 109,040                |
| 073-007-00045    | 438,200                    | 1,107,800                         | 1,546,000                   | 618,400                |
| 073-007-00047    | 81,900                     | 210,700                           | 292,600                     | 117,040                |
| 073-007-00048    | 94,600                     | 265,400                           | 360,000                     | 144,000                |